

## असाधारण EXTRAORDINARY

भाग II—खण्ड 1 PART II—Section 1

## प्राधिकार से प्रकाशित PUBLISHED BY AUTHORITY

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नई बिल्ली, बृहस्पतिवार, मई 19, 1988/बैशाख 29, 1910 NEW DELHI, THURSDAY, MAY 19, 1988/VAISAKHA 29, 1910

इस आग में भिन्न पृष्ठ संख्या वी जाती है जिससे कि यह अलग संकलन भी रूप में रखा था सके।

Separate paging is given to this Part in order that it may be filed as a separate compliation

## MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 19th May, 1988/Vaisakha 29, 1910 (Saka)

## THE BENAMI TRANSACTIONS (PROHIBITION OF THE RIGHT TO RECOVER PROPERTY) ORDINANCE, 1988

No. 2 of 1988

Promulgated by the President in the Thirty-ninth Year of the Republic of India.

An Ordinance to prohibit the right to recover property held benami and for matters connected therewith or incidental thereto.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Benami Transactions (Prohibition of the Right to Recover Property) Ordinance, 1988.

Short title, extent and commencement.

- (2) It extends to the whole of India except the State of Jammu and Kashmir.
  - (3) It shall come into force at once.

Prohibition of the right to recover property held benami.

- 2. (1) No suit, claim or action to enforce any right in respect of any property held benami against the person in whose name the property is held or against any other person shall lie by or on behalf of a person claiming to be the real owner of such property.
- (2) No defence based on any right in respect of any property held benami, whether against the person in whose name the property is held or against any other person, shall be allowed in any suit, claim or action by or on behalf of a person claiming to be the real owner of such property.
  - (3) Nothing in this section shall apply,—
  - (a) where the person in whose name the property is held is a co-parcener in a Hindu undivided family and the property is held for the benefit of the co-parceners in the family; or
  - (b) where the person in whose name the property is held is a trustee or other person standing in a fiduciary capacity, and the property is held for the benefit of another person for whom he is a trustee or towards whom he stands in such capacity.

Act not to apply in certain cases, 3. Nothing in this Act shall affect the provisions of section 53 of the Transfer of Property Act, 1882, or any law relating to transfers for an illegal purpose.

4 of 1862.

Repeal of provisions of certain Acts. 4. (1) Section 82 of the Indian Trusts Act, 1882, section 66 of the Code of Civil Procedure, 1908 and section 281A of the Income-tax Act, 1961, are hereby repealed.

2 of 1882. 5 of 1998. 43 of 1961.

(2) For the removal of doubts, it is hereby declared that nothing in sub-section (1) shall affect the continued operation of section 261A of the Income-tax Act, 1961, in the State of Jammu and Kashmir.

43 of 1961.

R. VENKATARAMAN,

President.

S. RAMAIAH, Secy. to the Govt. of India.